IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4794 of 2001

DATE OF DECISION:17.04.2007

Ram Chand etc. .....Appellants

Versus

Chand Singh .....Respondent

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri P.S. Jahangir, Advocate
for the appellants.

Shri Raj Kumar, Advocate
for the respondent.

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This is a defendants' Regular Second Appeal against the judgement and decree passed by first appellate Court, whereby, the decree passed by the trial Court dismissing the suit of the plaintiff for permanent injunction has been reversed.

I have heard counsel for the parties and gone though the judgements and decree passed by both the Courts below.

In this case, the dispute is about a Bara (manure pit). Both the parties claim their ownership and possession over it. Undisputedly, the disputed Bara is situated within the 'lal dora' of the village. The trial Court dismissed the suit after coming to the conclusion that the plaintiff as well as defendants have failed to prove their ownership as well as possession on the disputed Bara. The first appellate Court has reversed the said finding on the ground that the trial Court has ignored certain evidence available on record, which clearly prove the ownership and possession of the plaintiff. In this regard, first appellate Court has referred to the statement of the plaintiff in which he has stated that he has constructed the boundary wall

on the disputed plot. His statement was also corroborated by the another witness, namely, Darbara Singh and draftsman-Dinesh Kumar, who prepared the site plain Ex. P-1. On the other hand, the defendants have placed on record document Ex. D1 (compromise between the parties). In the said compromise, the defendants themselves have admitted that the plaintiff was the owner in possession of the property, which they have purchased from him for a consideration of Rs. 800/-. Undisputedly, there is no sale deed in favour of the defendants. Transfer of ownership has also not been proved. The appellate Court while taking into consideration Ex. D1 which has been ignored by the trial Court, has come to the conclusion that the plaintiff is owner in possession of the plot in dispute. The said finding of fact recorded by the first appellate Court, in my opinion, is not liable to be interfered in second appeal. No substantial question of law is also involved in this appeal.

Dismissed.

April 17, 2007 **(SATISH KUMAR MITTAL)**
pooja **JUDGE**